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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODGING) NO.2999 OF 2005

Akhil Bhartiya Mathadi, Transport
& General Kamgar Union. ... Petitioner

Vs.

Grocery Markets & Shops Board,
(For Brihan Mumbai, Thane &
Raigad Districts) & Ors. ... Respondents

Mr. S.S. Pakale for the petitioner.

Ms. Lata Desai for respondent 1.

Mr. C.U. Singh, senior counsel with Ms. Deepa Chavan i/b ANS Law Associates for respondent 2.

Mr. P.V. Dhopatkar, A.G.P. for respondent 3 - State.

Mr. P.K. Jadhav, Section Officer, Industries & Labour Department.

CORAM: SMT. RANJANA DESAI &
ABHAY S. OKA, JJ.

DATED: 21ST DECEMBER 2005.

P.C.:-

1. The petitioner is a trade union registered under the Trade Union Act, 1926. It represents a large number of Mathadi workers. It has challenged in this petition order dated 8/12/2005 passed by the Assistant Commissioner & Chairman of Labour, Grocery Markets and Shops Board, Mumbai.

2. From the impugned order, it appears that on the direction of the Minister of Labour, Assistant

Commissioner of Labour has stayed his earlier order dated 3/12/2005 whereby the following direction was given.

> "Looking to the aforesaid facts, we call upon you to get yourself registered with the Board as a principal employer and also instruct your contractor - M/s. Leela Enterprises, C/o. Revlon Textile Pvt. Ltd., Krishna Mill Compound, Bhandup, Mumbai to get themselves registered with the Board for handling Amul Products (Mathadi work) and you are further called upon to provide work to the workmen of Toli No.63."

3. We have heard Mr. Pakale, the learned counsel appearing on behalf of the petitioner. He has made a serious grievance and, in our opinion, he is justified in making the grievance that the Assistant Commissioner of Labour could not have stayed his own order and that too on a mere oral direction of the Minister for Labour.

4. We called upon Mr. Dhopatkar, the learned A.G.P. appearing for respondent 3 - State of Maharashtra to show us whether there is any written order of the Minister for Labour directing the Assistant Commissioner for Labour, Mumbai to stay his order. We are told by the learned A.G.P. that there is no written order of the Minister and there is not even a noting on the relevant files of

the Mantralaya as regards the oral order of the Minister. The learned counsel for respondent 4 has informed us that telephonic instructions were given by the Minister to respondent 5 to stay his order.

5. We are distressed at the fact that the Minister should give such oral instructions to the Assistant Commissioner for Labour ordering him to stay his order. We deprecate this practice. Mr. Pakale has also contended that the Minister has no powers to pass such an order. At this stage, we do not wish to go into this aspect of the matter. We, however, wish to express our displeasure at this conduct of the Minister. If such oral orders are allowed to be passed, it will become the order of the day and it would cause havoc. Ordinarily, we would have vacated this order forthwith, but for the fear expressed by Mr. Singh, the learned counsel appearing for respondent 2 that there is likelihood of some untoward incident taking place because of the rivalry between the two Tolies of Mathadi workers, which are involved in this matter. Mr. Singh submits that he will make an appropriate application to the Government as well as to the Chairman of respondent 1 Board for appropriate orders tomorrow i.e. 22/12/2005. It is because of this submission that we are not vacating the impugned order dated 8/12/2005. The said order will operate only till Friday i.e. till 23/12/2005. We make it clear that after Friday i.e. 23/12/2005, this order shall come to an end. This, however, will not preclude

the appropriate authority from passing appropriate orders. All contentions of the parties are kept open.

6. It is also further clarified that if any application is made by respondent 2, notice thereof be given to all concerned and the State Government or the Chairman of the Board shall pass the appropriate orders after hearing all the parties.

7. The petition is disposed of in the aforestated terms.

(SMT. RANJANA DESAI, J.)

(ABHAY S. OKA, J.)